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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN LEE,

Defendant.

Case No.: CR 19-00419 SI

**REPLY TO MOTION FOR
COMPASSIONATE RELEASE
PURSUANT TO 18 U.S.C. § 3582**

1 Defendant John Lee respectfully submits this brief reply for the Court's consideration to
2 address a few points raised in the government's opposition:

3 *First*, there is certainly no reason to defer longer to the Bureau of Prisons (BOP) regarding
4 home confinement. It has been over a month and a half since BOP was ordered by Attorney General
5 Barr to immediately begin reviewing inmates for home confinement eligibility in view of the
6 coronavirus pandemic, and yet there has been no movement in this case. Mr. Lee himself requested
7 home confinement a month ago, and still has not even received a response. Given the government's
8 representation that BOP is unable to even evaluate Mr. Lee for compassionate release because he is
9 not in their custody, the Court should not hesitate to act. It is quite clear that BOP is unable or
10 unwilling to do so.

11 *Second*, Mr. Lee has met his burden. The government's claim that documentation is required
12 to support Mr. Lee's motion is without any support. Santa Rita never screened Mr. Lee for asthma,
13 and he received the inhaler only upon request at pill count. Mr. Lee and his wife have offered
14 detailed, sworn declarations about his asthma, and he is happy to answer the Court's questions at the
15 hearing. The government has no reason to doubt their testimony. To the extent the government
16 suggests otherwise, an expert certainly isn't necessary to establish that Mr. Lee's symptoms—daily
17 wheezing, interrupted sleep—are consistent with those of moderate to severe asthma. Finally,
18 although the government attempts to make much of it, Mr. Lee simply did not consider his asthma to
19 be a major health issue the Court should be aware of when he was interviewed by Probation, so he
20 did not mention it. That is unsurprising, it happens all the time, and it does not undermine his claim
21 given the record.

22 *Third*, the government appears to misunderstand smoking-induced immunodeficiency.
23 Secondary immunodeficiency is not like HIV or other diagnosable immunodeficiency diseases; it is
24 simply an impaired immune response of the respiratory system due to smoking. There is no doubt
25 Mr. Lee is a longtime smoker, and the cited research from UCSF shows that smoking doubles the
26 odds that the coronavirus disease will progress, leading to serious illness. The CDC also advises
27 immunocompromised smokers are at risk.
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